

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

MAR 26 2008

MOLLY DWYER, ACTING CLERK
U.S. COURT OF APPEALS

GRIGOR GASPARYAN; KATERINA
MALATCHYAN,

Petitioners,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 06-75704

Agency Nos. A79-245-443
A79-245-444

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted March 18, 2008**

Before: CANBY, T.G. NELSON, and BEA, Circuit Judges.

Grigor Gasparyan and Katerina Malatchyan, natives and citizens of
Armenia, petition for review of the Board of Immigration Appeals' ("BIA") order

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

06-75704

denying their motion to reopen removal proceedings based on ineffective assistance of counsel. We have jurisdiction under 8 U.S.C. § 1252. Reviewing for abuse of discretion, *Iturribarria v. INS*, 321 F.3d 889, 894 (9th Cir. 2003), we deny the petition for review.

The BIA did not abuse its discretion when it denied petitioners' motion to reopen as untimely and refused to apply equitable tolling, because petitioners did not present any evidence to indicate that they acted with due diligence once they became suspicious of their counsel's deficient representation. *See Singh v. Gonzales*, 491 F.3d 1090, 1096-97 (9th Cir. 2007) (equitable tolling requires evidence of prompt actions taken to discover counsel's deficient representation).

PETITION FOR REVIEW DENIED.